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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/058,098	01/29/2002	Takao Sawabe	041465-5064-01	1006

9629 7590 04/21/2004

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EXAMINER	
YOUNG, WAYNE R	

ART UNIT	PAPER NUMBER
2652	10

DATE MAILED: 04/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No.	Applicant(s)	
	10/058,098	SAWABE ET AL.	
	Examiner	Art Unit	
	W. R. Young	2652	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

a) ☒ The period for reply expires *4* months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1.☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.

2.☐ The proposed amendment(s) will not be entered because:

(a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ they raise the issue of new matter (see Note below);

(c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____.

3.☐ Applicant's reply has overcome the following rejection(s): _____.

4.☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

5.☒ The a)☐ affidavit, b)☐ exhibit, or c)☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: *See Continuation Sheet*.

6.☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.

7.☐ For purposes of Appeal, the proposed amendment(s) a)☐ will not be entered or b)☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

8.☐ The drawing correction filed on _____ is a)☐ approved or b)☐ disapproved by the Examiner.

9.☐ Note the attached Information Disclosure Statement(s)(PTO-1449) Paper No(s). _____.

10.☐ Other: _____

W. R. Young
Primary Examiner
Art Unit: 2652

1.

Continuation of 5. does NOT place the application in condition for allowance because: re the Restriction traversal, applicant argues that the claimed Groups are not in fact subcombinations disclosed as useable together as required by the MPEP. However, assuming arguendo that the Groups are not disclosed as useable together, then they must ipso facto be unrelated inventions. Applicant may then substitute the following paragraph as the explanation in the Restriction requirement of how the invention Groups are related and why they are patentably distinct:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case, the different inventions are admitted by applicant to not be disclosed as useable together and the recording methods of the Groups are responsive to the patentably distinct use of input designation information and readout identification control information, respectively, thereby operating in different modes that result in different functions and effects.

As to demonstrating a serious burden, note the different classification for each Group and MPEP 803.

As to Endoh lacking "same in content", note that this limitation is interpreted as meaning that the same song or performance is stored. As admitted by applicant, Endoh stores the same song using different formats. This meets the claimed storing of audio information different in recording method and same in content.